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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/030,886      | 04/30/2002  | Riccardo Losa        | PST6220PIUS/2168    | 6033             |

7590

09/30/2002

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EXAMINER

WEDDINGTON, KEVIN E

ART UNIT

PAPER NUMBER

1614

DATE MAILED: 09/30/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
10/030,886

Applicant(s)

Riccardo

Examiner  
Kevin E. Weddingt n

Art Unit  
1614



-- Th MAILING DATE of this communicati n appears n the cover sheet with th c rrespondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on May 6, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 11-24 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 is/are allowed.
- 6) ☒ Claim(s) 1, 11-16, and 18-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some\* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6 6) ☐ Other:

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CLAIMS 1 AND 11-24 ARE PRESENTED FOR EXAMINATION.

APPLICANT'S PRELIMINARY AMENDMENT FILED APRIL 30, 2002 AND THE  
INFORMATION DISCLOSURE STATEMENT FILED MAY 6, 2002 HAVE BEEN RECEIVED AND  
ENTERED.

***PRIORITY***

RECEIPT IS ACKNOWLEDGED OF PAPERS SUBMITTED UNDER 35 U.S.C. 119(A)-(D),  
WHICH PAPERS HAVE BEEN PLACED OF RECORD IN THE FILE.

***ALLOWABLE SUBJECT MATTER***

CLAIM 17 IS ALLOWABLE.

***CLAIM REJECTIONS - 35 U.S.C. § 103***

THE FOLLOWING IS A QUOTATION OF 35 U.S.C. 103(A) WHICH FORMS THE BASIS  
FOR ALL OBVIOUSNESS REJECTIONS SET FORTH IN THIS OFFICE ACTION:

(A) A PATENT MAY NOT BE OBTAINED THOUGH THE INVENTION IS NOT IDENTICALLY DISCLOSED OR DESCRIBED  
AS SET FORTH IN SECTION 102 OF THIS TITLE, IF THE DIFFERENCES BETWEEN THE SUBJECT MATTER  
SOUGHT TO BE PATENTED AND THE PRIOR ART ARE SUCH THAT THE SUBJECT MATTER AS A WHOLE WOULD  
HAVE BEEN OBVIOUS AT THE TIME THE INVENTION WAS MADE TO A PERSON HAVING ORDINARY SKILL IN THE  
ART TO WHICH SAID SUBJECT MATTER PERTAINS. PATENTABILITY SHALL NOT BE NEGATED BY THE MANNER IN  
WHICH THE INVENTION WAS MADE.

CLAIMS 1, 11-16 AND 18-24 ARE REJECTED UNDER 35 U.S.C. 103(A) AS BEING  
UNPATENTABLE OVER NITSAS (B).

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NITSAS TEACHES AN ANTIMICROBIAL PHARMACEUTICAL COMPOSITION COMPRISING AN ANTIMICROBIAL-EFFECTIVE AMOUNT OF AN ESSENTIAL OIL OBTAINED FROM *ORIGANUM VULGARE* SSP. *HIRTUM* CONTAINING THYMOL AND CARVACROL. NOTE THE WEIGHT RATIO OF THE CARVACROL TO THYMOL IS 10:1, THE SAME AS APPLICANT'S CLAIM 1. THE REFERENCE ALSO TEACHES ANTIMICROBIAL PHARMACEUTICAL COMPOSITION IS USED TO TREAT DISEASES CAUSED BY PATHOGENIC MICROORGANISMS OF THE ABDOMINAL TRACT, THE SAME AS APPLICANT'S USE FOR THE TREATMENT OF SWINE DYSENTERY (THE INFLAMMATION OF THE ABDOMINAL AND INTESTINAL TRACT OF SWINE). THE REFERENCE ALSO TEACHES THE INSTANT COMPOSITION CAN BE ADMINISTERED ORALLY IN DRINKING WATER (COLUMN 7, LINES 18-22), AND USED TO BE APPLIED TOPICALLY TO THE SKIN OF THE INFECTED MAMMAL, SUCH AS A DRENCH BATH OR OINTMENT.

THE INSTANT INVENTION DIFFERS FROM THE CITED REFERENCE IN THAT THE CITED REFERENCE DOES NOT TEACH THE APPLICANT'S PREFERRED INDIVIDUAL AMOUNTS OF CARVACROL AND THYMOL IN THE COMPOSITION. HOWEVER, TO DETERMINE INDIVIDUAL AMOUNTS OF EACH COMPONENT OF THE INSTANT COMPOSITION HAVING OPTIMUM THERAPEUTIC INDEX IS WELL WITHIN THE LEVEL OF ONE HAVING ORDINARY SKILL IN THE ART, AND THE ARTISAN WOULD HAVE BEEN MOTIVATED TO DETERMINE OPTIMUM AMOUNTS TO GET THE MAXIMUM EFFECT OF EACH COMPONENT.

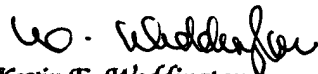
CLAIMS 1, 11-16 AND 18-24 ARE NOT ALLOWED.

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ANY INQUIRY CONCERNING THIS COMMUNICATION OR EARLIER COMMUNICATIONS  
FROM THE EXAMINER SHOULD BE DIRECTED TO EXAMINER K. WEDDINGTON WHOSE  
TELEPHONE NUMBER IS (703) 308-1 235.

  
*Kevin E. Weddington*  
**Primary Examiner**  
**Art Unit 1614**

K. WEDDINGTON

SEPTEMBER 24, 2002